

#### § 44.87

connection therewith for which he may become liable to the United States.

(72 Stat. 1421; 26 U.S.C. 5711)

[25 FR 4716, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30801, May 8, 2002]

#### § 44.87 Power of attorney.

If the application for permit or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, company, or corporation, or by one of the partners for a partnership, or by an officer of an association or company, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 44.83, power of attorney conferring authority upon the person signing the documents shall be manifested on Form 5000.8 in accordance with its instructions.

[25 FR 4716, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-480, 67 FR 30802, May 8, 2002]

#### § 44.88 Description and diagram of premises.

The premises to be used by an export warehouse proprietor as his warehouse shall be described, in the application for permit required by § 44.82, and bond required by § 44.86, by number, street, and city, town, or village, and State. Such premises may consist of more than one building, which need not be contiguous: *Provided*, That such premises are located in the same city, town, or village and each located is described in the application for permit and the bond by number and street. Where such premises consist of less than an entire building, a diagram, in duplicate, shall also be furnished showing the particular floor or floors, or room or rooms, comprising the warehouse.

(72 Stat. 1421; 26 U.S.C. 5712)

#### § 44.89 Separation of premises.

Where the export warehouse premises consist of less than an entire building, the premises shall be completely separated from adjoining portions of the building, which separation shall be constructed of materials generally used in the construction of buildings

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and may include any necessary doors or other openings.

(72 Stat. 1421; 26 U.S.C. 5712)

#### § 44.90 [Reserved]

#### § 44.91 Additional information.

The appropriate TTB officer may require such additional information as may be deemed necessary to determine whether the applicant is entitled to a permit. The applicant shall, when required by the appropriate TTB officer, furnish as a part of his application for permit such additional information as may be necessary for the appropriate TTB officer to determine whether the applicant is entitled to a permit.

#### § 44.92 Investigation of applicant.

(a) *Investigation*. The appropriate TTB officer shall promptly cause such inquiry or investigation to be made, as may be necessary, to verify the information furnished in connection with an application for permit and to ascertain whether the applicant is eligible for a permit. Any of the following conditions may be grounds for denial of a permit:

(1) The premises on which it is proposed to conduct the business are not adequate to protect the revenue; or

(2) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

(i) Is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter;

(ii) Has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, processed tobacco, cigarette paper, or cigarette tubes; or

(iii) Has failed to disclose any material information required or made any material false statement in the application therefor.

(b) *TTB action*. An appropriate TTB officer who has reason to believe that the applicant is not entitled to a permit shall promptly give the applicant

notice of the contemplated disapproval of his application and opportunity for hearing thereon in accordance with part 71 of this chapter, which part (including the provisions relating to the recommended decision and to appeals) is made applicable to such proceedings. If, after such notice and opportunity for hearing, the appropriate TTB officer finds that the applicant is not entitled to a permit, he shall, by order stating the findings on which his decision is based, deny the permit.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. TTB-75, 74 FR 14485, Mar. 31, 2009, as amended by T.D. TTB-85, 75 FR 42607, July 22, 2010]

#### § 44.93 Issuance of permit.

After the application for permit, bond, and supporting documents, as required under this part, has been approved, the appropriate TTB officer will issue a permit to the export warehouse proprietor. The proprietor must keep such permit at the export warehouse and make it available for inspection by an appropriate TTB officer.

[T.D. ATF-480, 67 FR 30802, May 8, 2002]

### Subpart E—Changes Subsequent to Original Qualification of Export Warehouse Proprietors

SOURCE: 25 FR 4717, May 28, 1960, unless otherwise noted. Redesignated at 40 FR 16835, Apr. 15, 1975.

#### CHANGES IN NAME

#### § 44.101 Change in individual name.

Where there is a change in the name of an individual operating as an export warehouse proprietor he shall, within 30 days of such change, make application on Form 2098 (5200.16) for an amended permit.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6961, 33 FR 9491, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

#### § 44.102 Change in trade name.

Where there is a change in, or an addition or discontinuance of, a trade name used by an export warehouse proprietor in connection with operations authorized by his permit, the proprietor

shall, within 30 days of such change, addition, or discontinuance, make application on Form 2098 (5200.16) for an amended permit to reflect such change. The proprietor shall also furnish a true copy of any new trade name certificate or document issued to him, or statement in lieu thereof, required by § 44.85.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6961, 33 FR 9491, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

#### § 44.103 Change in corporate name.

Where there is a change in the name of a corporate export warehouse proprietor the proprietor shall, within 30 days of such change, make application on Form 2098 (5200.16) for an amended permit. The proprietor shall also furnish such documents as may be necessary to establish that the corporate name has been changed.

(72 Stat. 1421; 26 U.S.C. 5712)

[T.D. 6961, 33 FR 9491, June 28, 1968. Redesignated at 40 FR 16835, Apr. 15, 1975]

#### CHANGES IN OWNERSHIP AND CONTROL

#### § 44.104 Fiduciary successor.

If an administrator, executor, receiver, trustee, assignee, or other fiduciary, is to take over the business of an export warehouse proprietor, as a continuing operation, such fiduciary shall, before commencing operations, make application for permit and file bond as required by subpart D of this part, furnish certified copies, in duplicate, of the order of the court, or other pertinent documents, showing his appointment and qualification as such fiduciary, and make an opening inventory, in accordance with the provisions of § 44.144; *Provided*, That where a diagram has been furnished by the predecessor, in accordance with the provisions of § 44.88, the successor may adopt such diagram. However, where a fiduciary intends merely to liquidate the business, qualification as an export warehouse proprietor will not be required if he promptly files with the appropriate TTB officer a statement to that effect, together with an extension of coverage of the predecessor's bond, executed by the fiduciary, also by the surety on